

v/o

FILED
8:41 O'Clock A M

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

APR 20 2011

JEANNE HICKS, Clerk
BY Rita Storms
Deputy

DIVISION PRO TEM B

HON. WARREN R. DARROW

By: Diane Troxell, Judicial Assistant

CASE NUMBER: V1300CR201080049

Date: April 19, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA

Sheila Sullivan Polk
Yavapai County Attorney
Bill Hughes, Esq.
Steven Sisneros, Esq.
Deputy Yavapai County Attorneys

(Plaintiff)

(For Plaintiff)

VS.

JAMES ARTHUR RAY

Thomas K. Kelly, Esq.
425 E. Gurley
Prescott, AZ 86301

Luis Li, Esq.
Brad Brian, Esq.
Truc Do, Attorney at Law
Miriam Seifter, Attorney at Law
MUNGER TOLLES & OLSON LLP
355 S. Grand Avenue, 35th Fl.
Los Angeles, CA 90071

(Defendant)

(For Defendant)

**RULING ON STATE'S MOTION TO PRECLUDE QUESTIONS RELATING TO
MATTERS OUTSIDE THE KNOWLEDGE OF WITNESS AND
MOTION TO PRECLUDE IRRELEVANT EVIDENCE**

The Court has considered the State's motion and the arguments of counsel. At oral argument the Court made rulings on some of these matters; this written ruling supersedes those oral rulings. Each of the items set forth in the State's written motion are addressed below.

(1) Evidence of tax status of Angel Valley and the Hamiltons.

Rule 608(b) of the Arizona Rules of Evidence might provide a potential basis for cross-examination regarding tax status if the witness had personal knowledge of the subject. However, the Defendant has not shown that he has a good faith basis for asking such questions. Furthermore, based on the statements of defense counsel during oral argument, it appears that the questions could involve complex issues of tax law and the advice of an

attorney or an accountant. As discussed by this Court in the context of licensing for the Samurai Game and Holotropic Breathwork, this already lengthy trial will not be expanded to include such matters, which are, at most, of marginal relevance. At this time further questioning in this area is precluded.

(2) Evidence relating to the Hamiltons' religious affiliations.

At oral argument the parties agreed that questions must not be asked for purposes of eliciting testimony proscribed by Rule 610. The defense would be permitted, of course, to conduct appropriate cross-examination of witnesses who have testified about the topic of religious beliefs in connection with sweat lodge ceremonies.

(3) Evidence relating to obtaining a building permit for construction of the sweat lodge.

The Defendant suggests that, regardless of whether or not a building permit was required, the safety of the sweat lodge structure may have been enhanced if a permit had been obtained. According to the Defendant, evidence on this point is relevant to the material issue of the physical cause of death. The Court notes that the recently-disclosed Haddow report indicates that the sweat lodge structure may have been a significant factor in the physical cause of death. Thus, this evidence might be admissible.

(4) Evidence relating to bankruptcy.

Limited questioning on this topic would be admissible as to possible motive and bias.

(5) Evidence of federal lawsuit filed by Ivan H. Lewis, et al.

The Court has determined that evidence of this dismissed lawsuit has marginal relevance and will be precluded in accordance with Rule 403.

DATED this 20th day of April, 2011.


Warren R. Darrow
Superior Court Judge

cc: Victim Services Division